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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-197277 *Entitlement to* DATE: July 28, 1980

MATTER OF: Scott E. MacPherson - Temporary Duty
Subsistence Expenses - Relocation and
Temporary Quarters Subsistence Expenses

DIGEST: Employee hired to position in Salt Lake City, Utah, who performed most of his duties in Denver, Colorado, on temporary duty, is entitled to per diem and actual subsistence expenses to date of permanent change of duty station to Denver since evidence indicates Salt Lake City was his permanent duty station. Relocation expenses incurred prior to date of transfer may not be reimbursed since there was no administrative intention to transfer employee before that date. Also, employee is not entitled to temporary quarters subsistence expenses for apartment occupied as permanent residence.

Mary M. Rydquist, an authorized certifying officer of the Bureau of Land Management (BLM), United States Department of the Interior, requests our decision on the entitlement of Mr. Scott E. MacPherson to per diem, actual subsistence, relocation expenses, and temporary quarters subsistence expenses. Since the entitlement to these items depends on the effective date of Mr. MacPherson's permanent duty assignment to Lakewood, Jefferson, Colorado, we are requested to determine that date.

Mr. MacPherson was hired by the BLM on September 21, 1978, as a Range Conservationist, GS-9, with a duty station at Salt Lake City, Utah. He was initially given a 6-month temporary appointment. On March 22, 1979, he was given a 1-month temporary appointment as an Operations Research Analyst, GS-9. He served in that position under that appointment and extensions thereof until September 23, 1979, when he was promoted to the position of GS-11, Operations Research Analyst, by a career-conditional appointment with a permanent duty assignment at Lakewood, Jefferson, Colorado.

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B-197277

Mr. MacPherson traveled extensively during his assignment to Salt Lake City under travel authorizations issued by the BLM. However, most of Mr. MacPherson's duties were performed in the Denver area and he was reimbursed for his travel expenses and per diem or actual subsistence expenses through July 31, 1979. He has submitted travel vouchers for the period August 1 to September 23, 1979, but they have not been paid.

The certifying officer questions the validity of the payment of any per diem or subsistence expenses after March 6, 1979, since Mr. MacPherson terminated his lease in Salt Lake City at that time and at a later date moved to an apartment in Wheat Ridge, Colorado, a suburb of Denver. Mr. MacPherson has also submitted a voucher dated December 3, 1979, requesting reimbursement for temporary quarters subsistence expenses, transportation of household goods, loss of lease expenses, and miscellaneous expenses incident to his permanent change of station on September 23, 1979. The certifying officer asks whether the relocation items on that voucher may be paid.

The location of an employee's permanent duty station presents a question of fact and is not limited by the administrative designation. Cecil M. Halcomb, et al., 58 Comp. Gen. 744 (1979). Such duty station is the place where the major part of the employee's duties are performed and where he is expected to spend the greater part of his time. 32 Comp. Gen. 87 (1952). However, although Mr. MacPherson performed most of his duties in Denver, we do not question the validity of its determination as his temporary duty station. Mr. MacPherson was hired in September 1978 at Salt Lake City, Utah. It was not until November 1978 that an agreement was made between Salt Lake City and Denver officials to assign Mr. MacPherson to temporary duty in Denver. Mr. MacPherson also performed temporary duty in other locations and returned to Salt Lake City from

B-197277

time to time to perform duties there. He also received a waiver of a 60-day daily per diem requirement by the BLM, Headquarters, Washington, D.C. In addition, his payroll and leave records were maintained in Salt Lake City, and his series of temporary appointments show that location as his duty station. It was not until September 23, 1979, when he received a permanent position, that his duty station was changed to Denver.

The certifying officer refers to a March 22, 1979, date on Mr. MacPherson's Standard Form 50 of September 23, 1979, as an indication of an earlier permanent duty station change. However, it seems that the BLM has used that date to commence Mr. MacPherson's 1-year probationary period since that date corresponds with his temporary appointment as an Operations Research Analyst on March 22, 1979. Prior to that date, Mr. MacPherson was classified as a Range Conservationist.

The record shows that Mr. MacPherson relocated to Denver in March 1979. However, he was not authorized to move his household goods until September 23, 1979, when he received a permanent change of duty station to Denver. The BLM used Mr. MacPherson's Standard Form 50 to authorize his relocation expenses. Administrative authorization is a necessary condition to the Government assuming the transportation expenses of a transferred employee. 54 Comp. Gen. 993 (1975). Ordinarily, such authorization is evidenced by formal written travel orders issued prior to the performance of the travel. However, we have held that the reimbursement of moving and relocation expenses incurred prior to and in anticipation of a transfer of official duty station may be allowed if the travel order subsequently issued included authorization for the expenses on the basis of a previously existing administrative intention, clearly evident at the time the expenses were incurred by the employee. Joan E. Marci, B-188301, August 16, 1977; Philip H. Postel, B-187107, October 7, 1976.

B-197277

There is no evidence in the present record of an existing administrative intention to transfer Mr. MacPherson in March, when his expenses were incurred. In fact, he states that he was never aware of a position in Denver until September 23, 1979. In addition Mr. MacPherson's immediate supervisor states that his assignment at Denver was temporary until September 1979. Under such circumstances we hold that Mr. MacPherson's duty station was Salt Lake City until September 23, 1979. Therefore, he may be allowed per diem or actual subsistence until September 23, 1979, and those relocation expenses which he incurred prior to his actual transfer date may not be reimbursed.

In connection with the above this Office has allowed per diem and actual subsistence expenses where the employee relinquished lodgings at his permanent duty station and obtained lodgings at his temporary duty site. James H. Quiggle, B-192435, June 7, 1979; Robert E. Larrabee, 57 Comp. Gen. 147 (1977). The amount of the monthly rental should be prorated over the month. Nicholas G. Economy, B-188515, August 18, 1977. We note that Mr. MacPherson complied with the instructions in our decisions and only claimed \$5 per night for lodging for the period subsequent to the date he occupied the apartment.

Mr. MacPherson may not be paid the temporary quarters subsistence expense which he claims beginning September 23, 1979. This is so because his apartment was not temporary quarters as required by the Federal Travel Regulations, (FPMR 101-7, May 1973), paragraph 2-5.2c. This Office has, in accordance with the Federal Travel Regulations, consistently held that an employee may not be reimbursed subsistence expenses during the period he occupies the residence in which he intends to remain. Richard E. Hoffman, B-197958, March 31, 1980; Richard W. Coon, B-194880, January 8, 1980; Robert N. Havens, B-194837, August 8, 1979; Kenneth C. Crawford, B-194065, June 8, 1979.

B-197277

The evidence shows that Mr. MacPherson moved into his residence in March 1979, and still occupied the same apartment at the time of his permanent change of duty transfer. Thus, the apartment was his permanent residence and he is not entitled to temporary quarters subsistence expenses.

Accordingly, per diem and actual subsistence expenses for the period to September 23, 1979, may be paid if otherwise correct. Relocation expenses before that date and temporary quarters subsistence expenses may not be paid. However, Mr. MacPherson may be allowed the minimum miscellaneous expenses allowance since he was transferred and the allowance is payable without specific support. B-161562, November 2, 1967.



For the Comptroller General
of the United States